

AMENDED IN SENATE FEBRUARY 13, 2008

CALIFORNIA LEGISLATURE—2007–08 THIRD EXTRAORDINARY SESSION

SENATE BILL

No. 8

Introduced by Committee on Budget and Fiscal Review

February 7, 2008

An act relating to the Budget Act of 2007 to amend Section 6248 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 8, as amended, Committee on Budget and Fiscal Review. ~~Budget Act of 2007. Vehicles: sales and use taxes.~~

The Sales and Use Tax Law imposes a tax on the gross receipts from the storage, use, or other consumption in this state of tangible personal property. Under existing law, there is a presumption that a vehicle shipped or brought into this state within 90 days from the date of its purchase was purchased from a retailer for storage, use, or other consumption in this state, under specified circumstances.

This bill would expand this presumption to a vehicle, vessel, or aircraft brought into California within 12 months from the date of its purchase, if that vehicle, vessel, or aircraft is (1) purchased by a California resident, (2) subject to California's registration or property tax laws during the first 12 months of ownership, or (3) used or stored in this state more than $\frac{1}{2}$ of the time during the first 12 months of ownership. This bill would provide that the presumption may be controverted by documentary evidence, as specified. This bill would also provide that the presumption does not apply to aircraft or vessels brought into this state, on or after the effective date of this act, for the purpose of repair, retrofit, or modification.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on January 10, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 10, 2008, pursuant to the California Constitution.

This bill, by expanding the application of an existing presumption that requires the imposition of use tax on vehicles, vessels, and aircraft purchased outside of this state, would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2007.~~

Vote: ~~majority~~ ^{$\frac{2}{3}$} . Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6248 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 6248. (a) On and after ~~July 1, 2007~~ the effective date of this
- 4 section, there shall be a rebuttable presumption that any vehicle,
- 5 vessel, or aircraft bought outside of this state, and which is brought
- 6 into California within ~~90 days~~ 12 months from the date of its
- 7 purchase, and which is subject to registration under Chapter 1
- 8 (commencing with Section 4000) of Division 3 of the Vehicle
- 9 Code, was acquired for storage, use, or other consumption in this
- 10 state, state and is subject to use tax if any of the following occur:
- 11 (1) The vehicle, vessel, or aircraft was purchased by a California
- 12 resident as defined in Section 516 of the Vehicle Code.
- 13 (2) In the case of a vehicle, the vehicle was subject to
- 14 registration under Chapter 1 (commencing with Section 4000) of
- 15 Division 3 of the Vehicle Code during the first 12 months of
- 16 ownership.

1 (3) *In the case of a vessel or aircraft, that vessel or aircraft was*
2 *subject to property tax in this state during the first 12 months of*
3 *ownership.*

4 (4) *The vehicle, vessel, or aircraft is used or stored in this state*
5 *more than one-half of the time during the first 12 months of*
6 *ownership.*

7 (b) ~~This section shall become operative on July 1, 2007~~
8 *presumption may be controverted by documentary evidence that*
9 *the vehicle, vessel, or aircraft was purchased for use outside of*
10 *this state during the first 12 months of ownership. This evidence*
11 *may include, but is not limited to, evidence of registration of that*
12 *vehicle, vessel, or aircraft, with the proper authority, outside of*
13 *this state.*

14 (c) *This section does not apply to any vehicle, vessel, or aircraft*
15 *used in interstate or foreign commerce pursuant to regulations*
16 *prescribed by the board.*

17 (d) *The amendments made to this section by the act adding this*
18 *subdivision do not apply to any vehicle, vessel, or aircraft that is*
19 *either purchased, or is the subject of a binding purchase contract*
20 *that is entered into, on or before the operative date of this*
21 *subdivision.*

22 (e) (1) *Notwithstanding subdivision (a), aircraft or vessels*
23 *brought into this state for the purpose of repair, retrofit, or*
24 *modification shall not be deemed to be acquired for storage, use,*
25 *or other consumption in this state.*

26 (2) *This subdivision does not apply if, during the period*
27 *following the time the aircraft or vessel is brought into this state*
28 *and ending when the repair, retrofit, or modification of the aircraft*
29 *or vessel is complete, more than 25 hours of airtime in the case of*
30 *an airplane or 25 hours of sailing time in the case of a vessel are*
31 *logged on the aircraft or vessel by the registered owner of that*
32 *aircraft or vessel or by an authorized agent operating the aircraft*
33 *or vessel on behalf of the registered owner of the aircraft or vessel.*
34 *The calculation of airtime or sailing time logged on the aircraft*
35 *or vessel does not include airtime or sailing time following the*
36 *completion of the repair, retrofit, or modification of the aircraft*
37 *or vessel that is logged for the sole purpose of returning or*
38 *delivering the aircraft or vessel to a point outside of this state.*

1 (3) *This subdivision applies to aircraft or vessels brought into*
2 *this state for the purpose of repair, retrofit, or modification on or*
3 *after the operative date of this subdivision.*

4 (f) *The presumption set forth in subdivision (a) may be*
5 *controverted by documentary evidence that the vehicle was brought*
6 *into this state for the exclusive purpose of warranty or repair*
7 *service and was used or stored in this state for that purpose for*
8 *30 days or less. The 30-day period begins when the vehicle enters*
9 *this state, includes any time of travel to and from the warranty or*
10 *repair facility, and ends when the vehicle is returned to a point*
11 *outside the state. The documentary evidence shall include a work*
12 *order stating the dates that the vehicle is in the possession of the*
13 *warranty or repair facility and a statement by the owner of the*
14 *vehicle specifying dates of travel to and from the warranty or*
15 *repair facility.*

16 SEC. 2. *This act addresses the fiscal emergency declared by*
17 *the Governor by proclamation on January 10, 2008, pursuant to*
18 *subdivision (f) of Section 10 of Article IV of the California*
19 *Constitution.*

20 SEC. 3. *This act provides for a tax levy within the meaning of*
21 *Article IV of the Constitution and shall go into immediate effect.*

22 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
23 ~~changes relating to the Budget Act of 2007.~~